



## CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

October 15, 2004

### **H.R. 1417** **Copyright Royalty and Distribution Reform Act of 2004**

*As passed by the Senate on October 14, 2004*

#### **SUMMARY**

Under current law, the Copyright Office (within the Library of Congress) collects and distributes royalties for use of certain copyrighted material. H.R. 1417 would change the process for determining the rates and distribution of these royalties. CBO estimates that implementing H.R. 1417 would cost \$1 million in 2005 and \$5 million over the 2005-2009 period, assuming appropriation of the necessary amounts. H.R. 1417 also would have an insignificant effect on direct spending. Enacting the legislation would have no effect on revenues.

H.R. 1417 contains an intergovernmental and private-sector mandate as defined in the Unfunded Mandates Reform Act (UMRA), but CBO estimates that the cost of complying with the mandate would be small and well below the relevant thresholds established by UMRA (\$60 million for intergovernmental mandates and \$120 million for private-sector mandates in 2004, adjusted annually for inflation).

#### **ESTIMATED COST TO THE FEDERAL GOVERNMENT**

The estimated budgetary impact of H.R. 1417 is shown in the following table. The costs of this legislation fall within budget function 370 (commerce and housing credit).

	By Fiscal Year, in Millions of Dollars				
	2005	2006	2007	2008	2009
<b>CHANGES IN SPENDING SUBJECT TO APPROPRIATION</b>					
Estimated Authorization Level	1	1	1	1	1
Estimated Outlays	1	1	1	1	1

## **BASIS OF ESTIMATE**

Under current law, the use of certain copyrighted material by the public is governed by the terms of a compulsory license. Users of copyrighted material do not need specific permission from owners to use material with a compulsory license, but must pay royalties and abide by certain conditions when using the material.

The Copyright Office collects royalties from users of material subject to compulsory licenses and then distributes the royalties to owners of copyrighted works using guidelines agreed upon in private negotiations between users and owners. Rates for these royalties are also determined by negotiation between interested parties. The majority of these royalties are for cable television signals, satellite television signals, and digital audio recording technology. For example, cable operators pay royalties to transmit distant broadcast signals to cable viewers, and satellite carriers pay royalties to retransmit distant network and superstation signals by satellite.

When users and owners of copyright material cannot settle on rates or how to distribute royalties, the Librarian of Congress has the authority to convene a Copyright Arbitration Royalty Panel (CARP) made up of three independent arbitrators. CARPs hear testimony from interested parties and then make a recommendation to the Librarian of Congress regarding a rate or plan of royalty distribution. The Librarian of Congress adopts the CARP's recommendation unless the Librarian determines that the findings are arbitrary or conflicting with copyright law.

H.R. 1417 would change the process used to determine royalty rates and distribution. Three full-time Copyright Royalty Judges (CRJs) would replace the CARPs and make determinations on rates and distribution of royalties when copyright users and carriers cannot agree in private negotiations on the rates or methods to distribute royalties.

## **Direct Spending**

Under current law, payments to the arbitrators for their services and administrative costs for CARP proceedings are deducted from the royalties collected from users of the copyrighted material. H.R. 1417 would change this by making the salaries of the CRJs under the new system subject to appropriation. Based on information from the Copyright Office, CBO estimates that this change would have an insignificant impact on the timing (but not the amount) of direct spending.

## **Spending Subject to Appropriation**

H.R. 1417 would require that the costs of compensation for the new CRJs and their staff, and administrative costs for copyright royalty proceedings come from appropriated funds. Based on information provided by the Copyright Office, CBO estimates that those costs would amount to about \$1 million in 2005 and \$5 million over the 2005-2009 period. The legislation also would require that each party wishing to participate in a proceeding before the CRJs pay a filing fee of \$150, which would partly offset the administrative costs for proceedings before the CRJs. Based on information provided by the Copyright Office, CBO estimates that such fees would amount to less than \$5,000 a year.

## **INTERGOVERNMENTAL AND PRIVATE-SECTOR IMPACT**

H.R. 1417 would impose an intergovernmental and private-sector mandate, as defined in UMRA, because it would require state, local or tribal governments and entities in the private sector, if subpoenaed by the Copyright Royalty Judges, to appear or provide evidence. Based on information from affected entities, CBO expects that the judges would likely exercise their subpoena power sparingly and that the costs to comply with a subpoena would not be significant. Consequently, CBO estimates that the cost of complying with the mandate would be small and well below the relevant thresholds established by UMRA (\$60 million for intergovernmental mandates and \$120 million for private-sector mandates in 2004, adjusted annually for inflation).

## **PREVIOUS CBO ESTIMATE**

On October 17, 2003, CBO transmitted a cost estimate for H.R. 1417 as ordered reported by the House Committee on the Judiciary on September 24, 2003. The two versions are similar and our cost estimates are the same.

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